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BOOK REVIEWS.

JUDICIAL DICTIONARY OF WORDS AND PHRASES JUDICIALLY INTERPRETED, TO WHICH HAVE BEEN ADDED STATUTORY DEFINITIONS. F. Stroud. 3 vols. 2d ed. London: Sweet & Maxwell, Ltd.; Stevens & Sons. Boston: The Boston Book Company. 1903. pp. ccxxvii., 1-592; 593-1394; 1395-2302.

An adequate appreciation of Mr. Stroud's work would require a detailed and exhaustive examination beyond the power of the ordinary reviewer; for to understand the difficulties surmounted and the result achieved, he would have to do or attempt to do in a perfunctory way that which Mr. Stroud, by a lifetime of study and devotion, has accomplished and incorporated into the volumes now laid before the public. As to the plan, extent and purpose of the book, Mr. Stroud says that his "work in no sense competes with, nor does it cover the same ground as the Law Lexicons. * * * As its name imports, it is a Dictionary of the English Language (in its phrases as well as single words), so far as that language has received interpretation by the Judges." "Its chief aim is," he informs us (likewise in the preface to the first edition published in 1890), "that it may be a practical companion to the English-speaking lawyer, not only in the Mother Country, but also in the Colonies and Dependencies of the Queen," and he might well have added in those portions of America where the Common Law is the firm foundation upon which the legal structure rests. And in the preface to the present edition, he truthfully and not immodestly sums up his endeavor in a passage replete with literary charm and feeling. "Good, or bad," he says, "it is believed that this book is unique. It had no predecessor and has no rival. Its Idea is * * * that it may become the authoritative Interpreter of the English of affairs for the British Empire; and, incidentally, forge a link in the golden chain of common interest and community of feeling which binds together its various peoples."

The labor involved in the composition of the work is enormous, for a dictionary of words and phrases judicially interpreted could only be compiled from cases actually passed upon in courts of justice. And of these decisions, some seventeen thousand are cited, those of English courts being naturally the chief sources. Once again to quote Mr. Stroud, who says (after an enumeration of his sources—English, Irish, Scotch and Colonial) "To formulate the English judicial interpretations from the earliest times down to the end of the Nineteenth Century and therewith to blend the statutory definitions of the High Court of Parliament has been the endeavor of this edition; incorporating a not inconsiderable treatment of Irish decisions, and some from Scotland and the United States."

In this Mr. Stroud states the purpose and extent of his work; the last clause indicates its limitations to the American. The book is thus derived from English sources and is primarily intended for English lawyers. In a less degree it serves the purpose of the American as well; for we cannot break with our past if we would, and this work puts our legal past and much of our present before us in the turning of a page.

Having stated, chiefly in Mr. Stroud's own words, the aim, scope and sources of the Dictionary, the question arises as to the execution of the undertaking, and upon the answer to this query will depend the value of the work. A careful examination of numerous words and phrases shows that Mr. Stroud invariably defines them as have the courts and that the cases turning on the correct or incorrect application of the word or phrase have been cited as the proper authorities.

For purposes of test open the Dictionary at Mortgage (Vol. II, p. 1226), and it will be seen that Mr. Stroud quotes twenty-two lines from the decision of Vice-Chancellor PLUMER in *Quarrel v. Beckford*, 1 Mad. 278. It is submitted that a clearer, more adequate definition or description of the equitable and legal mortgage could hardly be found. In the next paragraph (a citation of five lines from the opinion of Sir PEPPER ARDEN, in *Jones v. Smith*, 2 Ves. 378,) the exact difference between a mere pledge and mortgage of personal effects is suggested.

In the third paragraph Mr. Stroud quotes from Lord LINDLEY's opinion in *Santley v. Wilde* [1899] 2 Ch. 274, to the effect that "'a mortgage is a conveyance of land or an assignment of chattels as a security for the payment of a debt or the discharge of some other obligation for which it is given:—the security is redeemable on the payment or discharge of such debt or obligation,—any provision to the contrary notwithstanding * * * If I give a mortgage with a condition that I am not to redeem, that is a repugnant condition, and is a clog on the equity of redemption' which is invalid." Now if Mr. Stroud stopped there he would be subject to criticism, for the case of *Santley v. Wilde* has been overruled. But he refers to *Salt v. Northampton* [1892] A. C. 1; and *Biggs v. Hoddinott* [1898] 2 Ch. 307, "which last two cases" he very justly says, "modify most of the previous decisions as to what is Clogging the Equity." This remark is true and the subsequent citation of *Rice v. Noakes*, [1900] 1 Ch. 213; 2 Ch. 445; [1902] A. C. 24, shows that Mr. Stroud is fully aware of the status of *Santley v. Wilde* and of the present doctrine of "Clogging the Equity" in England. But no American case is cited, so that the article, valuable to the English practitioner, would fail to meet fully the requirements of the American lawyer.

Favorable examples of the compiler's method and accuracy are the following, taken well nigh at random: appurtenances, vol. 1, pp. 108-11; bona fide, id. pp. 201-3; business, id. pp. 234-8; carry on, id. pp. 263-7; damage, id. pp. 458-9; during, id. pp. 584-8; inappreciable, vol. ii, p. 942; may, id. pp. 1173-80; money, id. pp. 1214-8; month, id. pp. 1221-4; more or less, id. pp. 1225-6; navigable, id. pp. 1244-5; near thereto as she may safely get, id. pp. 1247-8; necessities, necessary, necessity, id. pp. 1249-57; other, id. pp. 1359-69; present tense, vol. iii, p. 1541; provided always, id. p. 1595; reasonable, and its various combinations, id. pp. 1664-74; rest, id. pp. 1742-3; riparian, id. p. 1763; shall, id. pp. 1850-9; shore, id. pp. 1874-5; to be born, id. pp. 2065-6; usual, id. pp. 2153-61; workable, id. pp. 2265-6."

"Is not the Judge," says Baron MARTIN, "bound to know the meaning of all words in the English language?" If so his labor is a heavy one and he must needs lean heavily on associate and lawyer in

pointing the way. Mr. Stroud has brought together in his three volumes not only the words but the phrases in the English language which have been interpreted by the courts, and has thus performed an immense service to bench, bar and student. It would perhaps be inaccurate to say that the work is indispensable, because the profession got on without it ; but it is certainly indispensable in this sense that it should greatly lighten the labor of the English, and, in a lesser degree, the American practitioner.

Comprehensive in plan, scholarly and thorough in execution, accurate in law as well as in definition, Mr. Stroud would assuredly receive a quittance under the hand of Lord Bacon himself who says in his *Maxims of the Law* : "I hold every man a debtor to his profession ; from the which as men of course do seek to receive countenance and profit, so ought they of duty to endeavour themselves by way of amends to be a help and ornament thereunto."

THE LIFE OF JOHN MARSHALL. Henry Flanders. Philadelphia : T. & J. W. Johnson & Company. 1904. pp. x, 278.

At the present day there is a very evident revival of interest in everything touching or in any way concerning the career of the one who stands out pre-eminently as the Great Chief Justice. This may be explained in various ways, but clearly needs no justification. It may be that the result of MARSHALL's labors on the bench of the Supreme Court is more obvious to us than to our fathers or grandfathers, for we are as a nation, in large measure, what MARSHALL's Constitutional opinions have made us. The amendments to the Constitution tend to a federal nationality, but MARSHALL's views educated bench, bar and the legislature in that direction. It may be that his work as a statesman, obscured by his services on the bench, is attracting our attention more than formerly, because the historian of to-day devotes care and attention to that phase of his career. And this is not only right but natural ; for to the public of 1801, MARSHALL was known as a zealous politician and leader of the Federalist party. Member of the Convention in Virginia for the ratification of the Constitution ; member of the State Legislature and subsequently of Congress ; Envoy to France ; Secretary of State in the administration of the elder ADAMS would suggest the man versed in public affairs. Politician he may have seemed in those days to his political opponents : Statesman he is and must be for us. Mr. John T. Morse, Jr. was, therefore, well-advised when he included MARSHALL in the *American Statesmen Series*. A third and final reason for this revival of interest undoubtedly lies in the recent celebration in 1901 of the hundredth anniversary of his appointment to the Chief Justiceship. This event was celebrated by bench and bar throughout the country, in which seats of learning joined. The addresses on this and on former occasions fill three bulky volumes recently published under the editorship of Mr. John F. Dillon.

From any one of these reasons, especially from a combination of the three, the publication in separate form of the present well-printed volume is both timely and judicious. Originally issued in the author's "*Lives and Times of the Chief Justices of the United States*" (published in 1855-1857) it has ever since been the standard life and source of